

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

HUMANA INC.,

and

HUMANA BENEFIT PLAN OF TEXAS,
INC.,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity
as Secretary of the United States Department
of Health and Human Services,

and

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

No. 4:23-cv-00909-O

**PLAINTIFFS' RESPONSE TO DEFENDANTS' CROSS-MOTION FOR SUMMARY
JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Civil Rule 56.4 of the United States District Court for the Northern District of Texas, Plaintiffs Humana Inc. and Humana Benefit Plan of Texas, Inc. (collectively, "Plaintiffs") respectfully file this Response to Defendants' Cross-Motion for Summary Judgment. Pursuant to Local Civil Rule 56.4(b), each of the matters required by Local Civil Rule 56.4(a) is set forth in the accompanying Plaintiffs' Consolidated Reply in Support of Motion for Summary Judgment and Opposition to Defendants' Cross-Motion for Summary Judgment.

Plaintiffs respectfully request that the Court grant Plaintiffs' Motion for Summary Judgment and deny Defendants' Cross-Motion for Summary Judgment.

Dated: February 3, 2025

O'MELVENY & MYERS LLP

By: /s/ Timothy S. Durst

K. LEE BLALACK II*
lblalack@omm.com
1625 Eye Street, N.W.
Washington, D.C. 20006
Telephone: (202) 383-5300
Facsimile: (202) 383-5414

TIMOTHY S. DURST
Texas Bar No. 00786924
tdurst@omm.com
2501 N. Harwood Street, Suite 1700
Dallas, Texas 75201
T: (972) 360-1900
F: (972) 360-1901

STEPHEN M. SULLIVAN*
ssullivan@omm.com
JONATHAN P. SCHNELLER*
jschneller@omm.com
ELIZABETH M. BOCK*
ebox@omm.com
HEATHER WELLES*
hwelles@omm.com
400 S. Hope Street
Los Angeles, California 90071
Telephone: (213) 430-6000
Facsimile: (213) 430-6407

JENNIFER B. SOKOLER*
jsokoler@omm.com
1301 Avenue of the Americas, 17th Floor
New York, New York 10019
Telephone: (212) 326-2000
Facsimile: (212) 326-2061

DAVID DEATON*
ddeaton@omm.com
Two Embarcadero Center, 28th Floor
San Francisco, California 94111
Telephone: (415) 984-8700
Facsimile: (415) 984-8701

*Attorneys for Plaintiffs Humana Inc. and
Humana Benefit Plan of Texas, Inc.*

* Admitted pro hac vice

CERTIFICATE OF SERVICE

On February 3, 2025, a true and correct copy of the foregoing document was served upon all persons who have requested notice and service of pleadings in this case via the Court's CM/ECF system.

/s/ Timothy S. Durst

Timothy S. Durst